

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
10546/109

First Named inventor: Michael J. Borrelli, Ph.D.

Art Unit: 1635

Application Number: 10/764,316

Examiner: Chong, Kimberly

Filed: January 23, 2004

Title: METHODS AND COMPOSITIONS FOR HEAT ACTIVATED GENE THERAPY USING CYTOLETHAL DISTENDING TOXIN

Attention: Office of Petitions  
Mail Stop Petition  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact  
Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.

NOTE: A grantable petition requires the following items:

- (1) Petition fee.
- (2) Reply and/or issue fee.
- (3) Terminal disclaimer with disclaimer fee-required for all utility and plant applications filed before June 8, 1995, and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee:

- ☒ Small entity-fee \$770.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.  
☐ Other than small entity – fee \$ \_\_\_\_\_ (37 CFR 1.17(l)).

2. Reply and/or fee:

A. The reply and/or fee to the above-noted Office action in the form of Corrected Amendment After Final (identify the type of reply)

- ☐ has been filed previously filed on \_\_\_\_\_.  
☒ is enclosed herewith.

B. The issue fee of \$ \_\_\_\_\_

- ☐ has been filed previously filed on \_\_\_\_\_.  
☐ is enclosed herewith.

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**3. Terminal disclaimer with disclaimer fee**

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

**4. STATEMENT:** The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING:** Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Steven Oberholtzer/  
Signature

January 18, 2008  
Date

Steven L. Oberholtzer  
Typed or Printed Name

30,670  
Registration No., if applicable

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Attachment(s) ☒ Reply  
☐ Terminal Disclaimer Form  
☐ Additional sheets containing statements establishing unavoidable delay  
☐ Other: \_\_\_\_\_

**CERTIFICATE OF EFS FILING UNDER 37 CFR §1.8**

I hereby certify that this correspondence is being electronically transmitted to the United States Patent and Trademark Office, Commissioner for Patents, via the EFS pursuant to 37 CFR §1.8 on the below date:

Date: January 18, 2008 Name: Steven Oberholtzer Signature: /Steven Oberholtzer/